

**TITLE 329 SOLID WASTE MANAGEMENT BOARD**

#00-185 (SWMB)

**SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD**

The Indiana Department of Environmental Management (IDEM) requested public comment from July 1, 2002 through July 31, 2002, on IDEM's draft rule language. IDEM received comments from the following parties by the comment period deadline:

Mark E. Shere, Bethlehem Steel Corporation (BSC)

Vincent L. Griffin, Vice President, Environmental and Energy Policy, Indiana Chamber of Commerce (ICC)

Following is a summary of the comments received and IDEM's responses thereto.

*Comment:* IDEM's proposal includes numerous revisions to definitions in the solid waste rules. One of the current definitions applies to the term "Responsible corporate officer" at 329 IAC 10-2-158. The definition refers to a "president, secretary, treasurer, or any vice president of the corporation." Bethlehem recommends that this definition be amended by adding the words "or Division" after "corporation." The Burns Harbor Division employs about 6,000 people, but it is not its own corporation. It usually makes more sense, and fosters greater accountability, to designate people with on-site operating responsibility in Indiana as the "responsible corporate officer," rather than management at Bethlehem's headquarters in Pennsylvania. Bethlehem made this same comment in response to IDEM's first notice of rulemaking, and the agency's July 1 notice states that the agency "will consider modifying this definition." The time for this consideration is now, and the change makes sense. (BSC)

*Response:* This definition was under review for consideration of your earlier comments of July 1, 2002, and inadvertently left out of the published draft rule. IDEM agrees and will make the change.

*Comment:* IDEM's current regulations add to the stringency of federal requirements by using restrictive definitions of the laboratory terms "holding times" and "practical quantitation limit." The current rules define holding time as the "maximum allowable" time between sample collection and analysis. But there is no requirement or practical reason for Indiana to use these times as a rigid "maximum," rather than flexible guidelines. Similarly, the rules define practical quantitation limit as the concentration level that can be "reliably achieved" during "routine laboratory operating conditions," despite extensive experience to the contrary. These essentially arbitrary definitions create needless regulatory issues without enhancing laboratory performance. (ICC)

*Response:* No change to 329 IAC 10 is needed. EPA publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," (SW-846) Third Edition, Final Update III defines "sample holding time" as "the storage time allowed between sample collection and sample analysis when the designated preservation and storage techniques are employed." The IDEM regulation does not add stringency to the federal definition. The word "maximum" emphasizes that there is a limit to the amount of time allowed between sample collection and analysis. Holding times are set according to the sampling and analysis methodologies and are not arbitrarily assigned. When set holding times are exceeded, the analytical results for the samples

may not meet the data quality objectives for the project and re-sampling and re-analysis may be necessary.

Similarly, SW-846 defines “estimated quantitation limit” (SW-846 uses this term in place of “practical quantitation limit”) as “the lowest concentration that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions.” Again the IDEM regulation does not add stringency to the federal definition. The words “practical” and “estimated” emphasize that quantitation limits are highly dependent on the matrix of the sample being analyzed. The words “reliably achieved” and “routine laboratory operating conditions” emphasize factors that must be considered when establishing practical quantitation limits.